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CLEARINGHOUSE RULE 98-183

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]

1. Statutory Authority

a. In s. Ins 3.67 (2) (a), an enrollee or his or her representative may request coverage of drug items not on a list of approved pharmaceuticals. However, under s. 632.853, Stats., the physician is required to present evidence of a patient needing an exception to the list of approved pharmaceuticals which may be used by health benefit plan participants. This rule paragraph should be revised accordingly.

b. In s. Ins 9.33 (2) (d), an insurer’s report must demonstrate that emergency care is available 24 hours per day and seven days per week. This does not appear to be required by the statute. See s. 632.85 (2), Stats., which implies that emergency care is needed only if the plan “provides coverage of any emergency medical services.” [See, also, s. 609.22 (6), Stats., as affected by 1997 Wisconsin Act 237.]

2. Form, Style and Placement in Administrative Code

a. SECTION 1 should read: “Ins 3.48, 3.50 and 3.52 are repealed.”

b. Section Ins 9.01 should constitute subch. I of ch. Ins 9. The remaining subchapters should be renumbered accordingly.

c. Section Ins 9.04 (2) (a) should be split into two paragraphs. The new par. (b) should commence with the phrase “A health maintenance organization insurer shall maintain,” because the requirements under current s. Ins 9.04 (2) (a) 1. and 2. apply only to health maintenance organization insurers. If this new paragraph is created, the subsequent paragraphs should be renumbered accordingly.

d. In s. Ins 9.04 (5) (a), a new par. (b) should be created beginning with the sentence “Health maintenance organization insurers and insurers licensed to write only limited service health organization business” Again, the material beginning with this sentence is a separate concept and requirement from the material in the first part of s. Ins 9.04 (5) (a).

e. In s. Ins 9.05 (1), an introductory clause should precede pars. (a) and (b) indicating that the business plan is required to include the information specified in “one of the following:”. Paragraph (a) then should conclude with a period. Similarly, par. (b) should begin with an introductory clause and subds. 1. and 2. each should conclude with a period.

f. Section Ins 9.07 (1) should be split into two sentences. The second sentence should read: “This information shall be made available to the commissioner on request.”

g. In s. Ins 9.08 (1), the term “Health Maintenance Organization” should not be capitalized. [See, also, ss. Ins 9.08 (4) and 9.39 (1) (a).]

h. In s. Ins 9.08 (1) (a) and (c), do not capitalize the word “Appendix.” [See, also, s. Ins 9.13.]

i. In s. Ins 9.11, the acronym “IPA” is used. An acronym should be defined prior to the first time it is used. [See s. 1.01 (8), Manual.]

j. In s. Ins 9.41, the notation “(1)” should be deleted.

k. The rule does not contain an effective date clause. [See s. 1.02 (4), Manual.]

4. Adequacy of References to Related Statutes, Rules and Forms

a. In s. Ins 3.67 (4) (g), it appears that the word “paragraph” should be replaced by the word “subsection.”

b. In s. Ins 9.01 (6), the notation “s.” should be inserted before the reference to “HFS 124.24.” [See, also, ss. Ins 9.08 (1) (c), 9.12 (3) and 9.41.]

c. In s. Ins 9.04, the introduction should conclude with a colon and, in sub. (1) (d), it appears that the reference “par. (1) (c)” should be replaced by a reference to “par. (c).”

d. In s. Ins 9.32 (1), “s. 609.15 (1a)” should read “s. 609.15 (1) (a).”

e. It would be useful in s. Ins 9.33 (2) to cross-reference sub. (1), which refers to the required annual certification on the numbers and types of providers.

f. It would be helpful in s. Ins 9.34 (1) to insert a cross-reference to s. 609.24, Stats., which contains the limitations on continuity of care.

g. The rule is replete with references to forms. The agency should ensure that the requirements of s. 227.14 (3), Stats., are met.

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. In s. Ins 3.67 (1) (a) (intro.), the introductory paragraph and subsequent subds. 1., 2. and 3., do not agree with each other. The introductory paragraph should be rephrased to read as follows: “Expedited request” means a request where the standard resolution process may do any of the following:”. Structural disagreements between introductory material and following subunits also can be found in ss. Ins 3.67 (4), 9.01 (3) and 9.04 (1).

b. In s. Ins 3.67 (3) (a), the term “health care plan” should be changed to “health benefit plan.” The entire rule should be reviewed for the use of the defined term “health benefit plan.”

c. Section Ins 9.01 (2) refers to an “enrollee,” while sub. (4) refers to a “plan enrollee.” Consistent terminology should be used.

d. Section Ins 9.01 should include a definition of the term “commissioner” and that term should be used consistently rather than using the terms “commissioner” and “office” interchangeably.

e. In the title to subch. I of ch. Ins 9, the title would be clearer if it stated something similar to “Financial Standards for Health Maintenance Organizations and Limited Service Health Organizations.”

f. Section Ins 9.04 (intro.) should conclude with a colon.

g. Section Ins 9.04 (1) (d) should be incorporated into par. (c) since it only applies to insurers licensed to write only limited service health organization business.

h. In s. Ins 9.04 (1) (e), is the term “required surplus” supposed to be “permanent surplus”?

i. In s. Ins 9.04 (2) (a) (intro.), insert the word “a” between the words “maintain” and “compulsory.”

j. In s. Ins 9.04 (2), since an insurer writing health maintenance organization business appears to be a different entity from a health maintenance organization insurer, perhaps both of these terms should be defined to improve the clarity of this subsection.

k. In s. Ins 9.04 (2) (b), the beginning of the second sentence should read: “The compulsory surplus shall be.” Also, the semicolon in the last sentence should be deleted.

l. In s. Ins 9.04 (2) (c), insert “of securities” after the term “deposit” in the first line.

m. If s. Ins 9.04 (5) (a) (intro.) contains a requirement for health maintenance organization insurers and insurers licensed to write only limited service health organization business to maintain a security surplus, the word “should” should be deleted and replaced with the word “shall.”

n. In s. Ins 9.04 (5) (b), the words “equal to” should be deleted. They are unnecessary.

o. In s. Ins 9.08 (3) (b), it appears that the correct reference should be to subs. (1) to (3). If so, subs. (4) and (5) can be collapsed into one subsection. Similarly, the paragraphs of sub. (3) can be combined into one subsection.

p. In s. Ins 9.09 (3), delete the comma after s. 609.92.

q. In s. Ins 9.10, delete the word “for” in the fourth line. [See, also, s. Ins 9.11.]

r. In s. Ins 9.31 (1) (c), insert the word “the” at the beginning of the phrase. In addition, pars. (a) to (c) should be renumbered as subs. (1) to (3).

s. In s. Ins 9.32, and in other long rule sections in ch. Ins 9 which do not currently have subsection titles, consider inserting subsection titles to guide the reader as to the subject matter of each subsection.

t. In s. Ins 9.32 (3), after the word “acknowledge,” insert “to the consumer,” so that it is clear who the acknowledgement is being given to.

u. In s. Ins 9.32 (4), delete “all grievances” in the second line and insert “a grievance.”

v. In s. Ins 9.33 (2), the word “a” should be inserted before the second occurrence of the phrase “health maintenance organization.” Also, sub. (6) (a) and (b) should be combined into one subsection. Finally, in sub. (6), a cross-reference should be included to s. 609.22 (7), Stats.

w. In s. Ins 9.34 (3), the comma should be deleted.

x. In s. Ins 9.35 (2), in the second line, delete the word “provide” and insert the word “provider.”

y. In s. Ins 9.37 (5), the phrase “which ever” should be one word.

z. In s. Ins 9.39 (1) (a), the material presented should conclude with a period. Also, should sub. (2) refer to a preferred provider plan as does sub. (3)?

aa. In Appendix C, under the hold harmless provisions, Section A. 1., the acronym “IPA” is used to refer to both an individual practice association and an independent practice association. The same acronym should not be used to refer to two different entities. If they are meant to be the same entity, revise accordingly.